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WEEKLY RATES OF ADVERTISING.

A square consists of space equivalent to ten lines Nonpareil type, or about seventy-five words.

	1 square.	2 squares	3 squares	¼ column	½ column	1 column
One insertion	1 00	1 75	2 50	4 00	6 00	10 00
One month	2 50	3 50	5 00	7 00	12 00	25 00
Two months	4 00	6 00	8 00	12 00	18 00	35 00
Three months	5 00	8 00	11 00	15 00	25 00	40 00
Six months	8 00	12 00	15 00	25 00	35 00	60 00
One year	12 00	18 00	24 00	40 00	60 00	100 00

TRIAL OF THE IMPEACHMENT—THE OPENING SPEECH OF MR. CURTIS.

[From the National Intelligencer.]

Mr. Curtis rose to open the case on the part of the President He said:

Mr. Chief Justice and Senators: I am here to speak to the Senate of the United States, sitting in its judicial capac ty as a court of judicial impeac ment, presided over by the Chief Justice of the United States, for the trial of the President of the United States.

[Here one or two sentences were entirely inaudible.]

Inasmuch as the Constitution requires that there shall be a trial, and inasmuch as in that trial the oath which each one of you has taken is to administer impartial justice according to the Constitution and laws, the only appeal that I can make here in behalf of the President is an appeal to the conscience and to the reason of each judge who sits in this court on the law and the facts in the case upon its judicial merits. On the duties incumbent on that high officer by virtue of his office, and on his honest endeavor to discharge those duties, the President rests his case; and I pray each one of you to listen with that patience which belongs to a judge for his own sake, but which I cannot expect by any efforts of mine to elicit, while I open to you what that defense is.

The honorable managers, through their associate, who has addressed you, have informed you that this is not a court; that whatever may be the character of this body it is bound by no law. On that subject I shall have something hereafter to say. The honorable manager did not tell you, in terms, at least, that there are no articles before you, because a statement to that effect would be in substance to say that there are no honorable managers before you—inasmuch as the only power by which the honorable managers are clothed by the House of Representatives is an authority to present here at your bar certain articles, and within the limits of them to conduct this prosecution. Therefore, I shall make no apology for asking your close attention to these articles, in manner and in form as they appear presented; to ascertain in the first place what the substantial allegations in each of them are; what is to be the legal proof and effect of these allegations; and what proof is necessary to be adduced in order to sustain them. I shall begin with the first article, not merely because the House of Representatives, in arranging these articles, has placed it first in order, but because the subject matter in that article is of such a character that it forms the foundation of the first eight articles of the series, and enters materially into the body of the remaining eleven. What, then, is the substance of the first article? What are (what the lawyers call) the *gravamena* contained in it? There is a good deal of verbiage—I do not mean unnecessary verbiage—in the description of the substantial thing set down in that article. Stripped of that it amounts exactly to these things: First, that the order, set out in the article, for the removal of Mr. Stanton, if executed, would have been a violation of the tenure-of-office act; second, that it was a violation of the tenure-of-office act; third, that it was an intentional violation of the tenure-of-office act; fourth that it was a violation of the Constitution of the United States; and, fifth, that it was by the President intended to be so; or, to draw all these into one sentence—which I hope may be intelligible and clear enough—I suppose the substance of this first article is, that the order for the removal of Mr. Stanton was, and was intended to be, a violation of the tenure of office act, and was, and was intended to be a violation of the Constitution of the United States. These are the allegations which it is necessary for the honorable managers to make out in order to support that article.

Now, there is a question involved here which enters deeply, as I have already intimated, into the first eight articles of this series, and materially touches two others; and to that question I desire, in the first instance, to invite the attention of the Court. That question is, whether Mr. Stanton's case comes under the tenure-of-office act. If it does not, if the true construction and effect of the tenure-of-office act, when applied to the facts in this case, include it, then it will be found by honorable Senators, when they come to examine this and the other articles, that a deep, indefaceable, and material wound has been attempted to be inflicted on the Constitution.

[The reporter will not vouch for the accuracy of this sentence, on account of the impossibility of hearing.]

I must ask your attention, therefore, to the question of the first section of the tenure of office act. It is as Senators know, but dry work, but it requires close and careful attention, and no doubt will receive it.

Allow me, in the first place to read it:

"That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided."

Then comes what is otherwise provided:

"Provided that the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General, shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and one month thereafter, subject to removal by and with the advice and consent of the Senate."

Here is a section, a part of which applies to all civil officers, as well to those then in office as to those who should thereafter be appointed. And the body of this section contains a declaration that every such officer is (that is, if he is now in office) and shall be (that is, if he shall be hereafter appointed to office) entitled to hold until another is appointed and qualified in his place. That is the body of the section. But out of that body of the section it is explicitly declared that there is to be excepted a particular class of officers as to whom something is otherwise provided, that is, a different rule is to be made for them.

Now, the Senate will perceive that in the body of the section every officer, as well as those then holding office as those hereafter to be appointed, is included. The language is, "every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed, is and shall be entitled to hold," &c. It affects the present. It sweeps over all who are in office. It includes them all, by its terms, as well as those who may hereafter be appointed. But when you come to the proviso, the first noticeable thing is, that that language is not used. It is not that every Secretary of State, of the Treasury, of War, &c., is to hold his office. It fixes a rule for the future only, and the question whether any particular Secretary comes within that rule is a question whether he comes within the general description contained in the proviso. There is nothing to bring him within the proviso—there is no express declaration, as in the body of the section, that he is, and hereafter shall be entitled to hold his office, &c.—nothing to bring him within the body of the proviso—except the description, and the question is, whether the proviso contains, applies to, and includes this case. Now, let us see if it does.

The Secretary of State, the Secretary of the Treasury, etc., "shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and one month thereafter." The first inquiry which arises on this language is this: As to what is meant by "for and during the term of the President by whom they may have been appointed." Mr. Stanton appears, by the commission which has been put in the case by the honorable managers, to have been appointed during the first term of President Lincoln, in January, 1862 Is the part of the language, "during the term of the President by whom they may have been appointed." applicable to Mr. Stanton's case? That depends whether a person expounding his law judicially has any right to add to it, "and any other term for which he may afterwards be elected." By what authority short of legislative power can these words be added to the statute, "during the term of the President?" Does it mean any other term or terms for which the President may be re-elected? I respectfully submit that no such judicial interpretation can be put upon the text.

At the time when this order was issued for the removal of Mr. Stanton, was he holding during the term of the President by whom he was appointed? The honorable managers say yes, because, as they say, Mr. Johnson is merely serving out the residue of Mr. Lincoln's term. But is that so, under the provisions of the Constitution of the United States? I pray you to allow me to read one or two sentences that are exactly applicable to this question. The first is the first section of the second article of the Constitution, which says:

"The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President chosen for the same term, be elected as follows."

There is a declaration that the President, and the Vice President is each respectively to hold his office for the term of four years. But that does not stand alone. Here is a qualification of that statement:

"In case of the removal of the President from office, or of his death, resignation, or inability to discharge the power and duties of the said office, the same shall devolve on the Vice President;" so that although the President, like the Vice President, is elected for the term of four years, and each is elected for the same term, the President is not to hold his office absolutely during four years. The limit of four years is not an absolute limit. There is a conditional limit, as the lawyers term it, imposed; and when, according to the second passage which I have read, the President dies, or is removed, then his term of four years for which he was elected, and during which he was to hold, provided he should so long live, terminates, and the office devolved on the Vice President. For what period of time? For the remainder of the term for which the Vice President was elected.

There is no more propriety under this provision of the Constitution of the United States in calling the time during which Mr. Johnson holds the office of President as it was devolved on him, a part of Mr. Lincoln's term, than there would be propriety in saying that one sovereign who succeeds to another sovereign by death holds a part of his predecessor's term. The term assigned by the Constitution was a conditional assignment. It was to last four years if not sooner ended; but, if sooner ended by death, then the office was to devolve on the Vice President and the term of the Vice President to hold the office then began.

I submit, then, that on this language it is equally apparent that Mr. Stanton's case cannot be considered as within this act. This law, however, as Senators very well know, had a purpose. There was a practical object in view. And however clear it may seem that the language of the law, when applied to Mr. Stanton, will exclude that case, however clear that may seem on the mere words of the law, if the purpose can be discerned, and that purpose plainly required a different interpretation, that different interpretation should be given. But, on the other hand, if the purpose that was in view is one which requires this interpretation to which I have been drawing your attention, then it greatly strengthens the argument, by showing that not only the language of the act itself, but the practical object which the legislation had in view in using this language, requires this interpretation. Now there can be no dispute concerning what that purpose was, as I suppose. Here is a peculiar class of officers, singled from all others and brought within this purpose. Why is it? It is because the constitution has provided that those principal officers in the several executive departments may be called upon by the President for advice respecting—(that is the language of the Constitution)—respecting their several duties; note as I read the Constitution, that the President may call upon the Secretary of War for advice concerning questions arising in the Department of War, but that he may call upon him for advice concerning questions which are a part of the duty of the President, and which touch his duties as well as questions that belong to the Department of War. Allow me to see if that is not a true interpretation. The language of the Constitution is that the President may require the opinion in writing of the principal officer of each of the Executive departments on any subject relative to the duties of their respective offices As I read it, it is "relating to duties of the office of these principal officers, or relating to the duties of the President himself." At all events, such was the practical interpretation put upon the Constitution from the beginning. And every gentleman who listens to me and who is familiar, as all are, with the political history of the country, knows that from an early period of the country, in the administration of General Washington his secretaries were called upon for their advice concerning matters not within their respective departments; and so the practice has continued from that time to this This is what distinguishes this class of officers in one particular from any other officers embraced within the body of this law. But there is another distinction. The Constitution undoubtedly contemplated that there should be executive departments organized, the heads of which were to assist the President in the administration of the laws, as well as by their advice. They were to be the hands and the voice of the President. And, accordingly, that has been so practiced from the beginning and is countenanced directly and explicitly by the legislation of Congress in the organization of the departments, and in the act which constitutes the Department of War. That act provides, as Senators will remember, in so many words, that the Secretary of War is to discharge such duties, within a certain general description there given, as shall be assigned to him by the President, and that he is to do it under the President's instructions and directions. Let me repeat. The Secretary of War and the other Secretaries, the Postmaster General and the Attorney General are deemed to be the assistants of the President in the performance of his great duty to take care that the laws are faithfully executed, and they are to speak and act for him. Now, do not those suggestions or views show why this class of officers were excepted out of the tenure-of-office act? They were to be the advisers of the President; they were to be the immediate, confidential assistants of the President, for whom he was to be responsible, and in whom he was expected to repose the gravest honor, trust and confidence. Therefore it was that this act has connected the tenure of office of these officers with that of the President, by whom they were appointed. It says, in fact, that, as the Secretaries who were appointed by some particular President, they shall continue to hold their office during the term of that President; but that as to Secretaries who are in office, and who are not appointed by any President now in office, Congress has nothing to say, and leave them as they stand.

I submit, Senators, that that is the natural and (having regard to the character of these officers) the necessary interpretation of the tenure of office act; so that it was not the intention of Congress to compel the President to continue in office a Secretary not appointed by himself.

Fortunately, however, we have not only those means of interpreting this law which I have alluded to—namely, the language of the act and the evident object and purpose of the act—but we have decisive evidence of what was intended and understood by the law, in each branch of Congress, at the time it was passed. In order to make this more apparent, and its just weight more evident, allow me to state—what is very familiar, undoubtedly, to Senators, but which I wish to recall to their minds—the history of this proviso. The bill, as Senators will recollect, originally excluded those officers altogether. It made no attempt, indeed it rejected all attempts, to prescribe the tenure of office for them. So the bill went to the House of Representatives. It was there amended by putting the Secretaries on the same footing as other civil officers appointed with the advice and consent of the Senate, and, thus amended, it came back to this body. This body disagreed to the amendment. Thereupon a committee of conference was appointed. That committee, on the part of the House, had for its chairman the Hon. Mr. Schenck, of Ohio, and on the part of this body, it had the Hon. Mr. Williams and the Hon. Mr. Sherman. That committee of conference came to an agreement to alter the House bill by striking those secretaries out of the body of the bill and inserting them in the proviso containing the matters now under consideration. Of course, when this report was made to the House of Representatives, it was incumbent on the committee appointed by that body to explain what was done, or agreed to be done, so that the House itself might understand and act intelligently on the matter Now I wish to read to the Senate the explanation given by the Hon. Mr. Schenck, the chairman of the committee on the part of the House, when he made the conference report to the House. After reading the report, Mr. Schenck said:

"I propose to demand the previous question on agreeing to the report of the committee of conference. But, before doing so, I will explain to the House the condition of the bill, and the decision of the committee of conference upon it. It will be recollected that the bill, as it passed the Senate, was to provide that the concurrence of the Senate should be required in all removals from office, except in the case of heads of departments. The House amended the bill of the Senate so as to extend this requirement to the heads of departments as well as to other officers. The committee of conference has agreed that the Senate shall accept the amendment of the House; but, inasmuch as this would compel the President to keep around him heads of departments until the end of his term, and who would hold over to the next term a compromise was made, by which a further amendment is added to this portion of the bill, so that the term of office of heads of departments shall expire with the term of the President who appointed them, allowing those heads of departments one month longer, in which, in case of death, or otherwise, other appointments can be made. That is the whole effect of the proposition reported by the committee of conference. It is, in fact, an acceptance by the Senate of the position of the House."

Then there were questions put to Mr Schenck, and he went on to say: "Their terms of office (that is, the terms of office of the Secretaries) are limited as they are now limited, by law, so that they expire with the term of service of the President who appoints them, and one month after, in case of death or other accident, until others can be substituted for them." Allow me to repeat that sentence: "They expire with the term of service of the President who appoints them, and one month after, in case of death or other accident."

Now, in this body, when the report of the committee of conference was made, Mr. Williams made an explanation of it. That explanation was, in substance, the same as that made by Mr. Schenck in the House. Thereupon a considerable debate sprung up. No debate had sprung up in the House; for the explanation of Mr. Schenck was accepted by the House as correct, and was unquestionably acted upon by the House as giving the true sense, meaning, and effect of the bill. In this body, however, a considerable debate sprung up. It would take too much of your time and too much of my strength to undertake to read this debate But I think the whole of it may fairly be summed up in this statement, that it was charged by one of the honorable Senators from Wisconsin [Mr. Doolittle,] that it was the intention of those who favored this bill to keep in office Mr. Stanton and some other secretaries; that that was directly met by the honorable Senator from Ohio [Mr. Sherman.] one of the members of the conference committee, by this statement:

"I do not understand the language of the Senator from Wisconsin. He first attributes a purpose to the conference committee, which I say is not true. I say that the Senate has not legislated with a view to any person, or to any President, and, therefore, he commenced by asserting what is not true. We do not legislate to keep in the Secretary of War, the Secretary of the Navy, or the Secretary of State."

Then a conversation arose between the Hon. Senator from Ohio and the Hon. Senator from Wisconsin, and the Hon. Senator from Ohio continued thus: "That the Senate has no such purpose is shown by its vote twice to make this exception; that this provision does not apply to the present case is shown by the fact that its language is so framed as not to apply to the present President. The Senator shows that himself, and argues truly that it would not prevent the present President from removing the Secretary of War, the Secretary of State And if I supposed that either of those gentlemen was so wanting in manhood, in honor, as to hold his place after the politest intimation from the President of the United States that his services were no longer needed, I certainly, as a Senator, would consent to his removal at any time, and so would we all." I read this, Senators, not as expressing the opinion of an individual Senator concerning the meaning of a law that is under discussion, and that is about to pass into legislation. I read it as the explanation of the report of the committee of conference appointed by this body, to see whether it could agree with the House of Representatives in the terms of this bill. And now I ask the Senate, if, looking at the language of this bill, looking at its purpose, looking at the circumstances under which it was passed, looking at the meaning then attached to it by each of the bodies who assented to it, is it possible to hold that Mr. Stanton's case is within the scope of this tenure-of-office act? I submit that it is not I now return to the allegation of this article. The first, as Senators will remember, is that the issuing of the order, which is set out in the article, was a violation of the tenure-of-office act. It is perfectly clear that this is not true. The tenure-of-office act, in its sixth section, enacts that every removal, appointment, and emolument that may have been exercised contrary to the provisions of this act shall be deemed a high misdemeanor. Well, in the first place, no removal has been proved. They set out the order of removal. If Mr. Stanton had obeyed that order, it would have been a removal; but, inasmuch as Mr. Stanton did not obey it, there was no removal. So that it is quite clear, that, looking at the sixth section of the act, they have made out no case of removal within the statute, and therefore, no case of a violation by any removal. It must not only be a removal, but it must be contrary to the provisions of the tenure-of-office act; and, therefore, if you hold the order to be, in effect, a removal, unless Mr. Stanton's case was within this act, and unless this act gave Mr. Stanton a tenure of office, his removal would not have been contrary to the provisions of the act.

But this article, as Senators will perceive on looking at it, does not allege simply that the order for the removal of Mr. Stanton was a violation of the tenure-of-office act. The honorable House of Representatives has not by its articles attempted, in other words, to erect a mistake into a crime.

I have been arguing to you at considerable length, and no doubt tiring your patience, the construction of this law. I have a clear idea of what its construction ought to be. Senators who have listened to me may have a different idea about it. But I think they will, in all candor, admit, then, that there is a question of construction here, and a question as to what the meaning of this law was; a question whether it is applicable to Mr. Stanton's case; a very honest and solid questions which any man may entertain. And therefore, I repeat, it is important to observe that the honorable House of Represenatives has not by this article endeavored to charge the President with a high misdemeanor, because he had failed in construing that law. The House charges him with intentionally misconstruing it. So that, in order to maintain the substance of this article, without which it was not designed by the House of Representatives to stand, and could not stand, it is necessary for the managers to show that the President wilfully misconstrued this bill—that having reason to believe, and actually believing, after the use of due inquiry, that Mr Stanton's case was within the law, he acted as if it was not within it. That is the substance of the charge of this article. Well, what is the proof in support of it? Not a particle of evidence.

Senators must undoubtedly be familiar with the fact that the office of the President of the United States, as well as many other executive officers, calling upon those who hold them for the exercise of judgment and skill in the application of the Constitution itself. It is true, the judicial power of the country, so to speak—technically speaking—is all vested in the Supreme Court, and in such inferior courts as Congress from time to time has established, or may establish. But, then, there is a great mass of judicial work to be performed by executive officers in the discharge o their duties, which is of a judicial character. Take, for instance, all that is done in the auditing of accounts. That is judicial, whether it be done by an auditor or comptroller, or whether it be done by a chancellor. It is of the same character when done by one as when done by the other. They must construe and apply the laws. They must investigate and ascertain the facts. They must come to some results founded on the law and on the facts. Now, this class of duties the President of the United States has to perform. A case is brought before him which, in his judgment, calls for action. His first inquiry must be, what is the law on the subject; and he encounters, among other things, this tenure of office act in the course of that inquiry. His first duty is to construe that law, to see whether it applies to the case, and to use, of course, in doing so, all those means and appliances which the Constitution and laws of the country have put into his hands to enable him to come to a correct decision. But, after all, he must decide, in order either to act or to refrain from acting That process the President was obliged to go through in this case, and did go through; and he came to the conclusion that the case of Mr. Stanton was not within this law. He came to that conclusion, not merely by examination into this law himself, but by resorting to the advice which the Constitution and laws of the country enable him to call for, in order to assist in coming to a correct conclusion. Having done so, will the Senate be prepared to say that this must have been a wilful misconstruction of the law, so wilful, so wrong, that it can justly and properly, and, for the purpose of this prosecution, effectually be termed a high misdemeanor? How does the law read? What are its purposes and objects? How was it understood here at the time it was passed? And how is it possible for this body to convict the President of the United States of a high crime and misdemeanor for construing the law as those who made it construed it at the time of its passage? I submit to the Senate that, thus far, no great advance has been made towards the conclusion, of either of the allegations in this article—that this order was a violation of the tenure of office act, or that there was an intent on the part of the President thus to violate it. And yet, although we have not yet gone over all the allegations in this article, we have met its head and front, and what remains will be found to be nothing but incidental and circumstantial, and not the principal subjects. If Mr. Stanton was not within this law, if he held during the pleasure of President Johnson, as he had held during the pleasure of President Lincoln, and if he was bound to obey that order to quit the place, instead of being sustained in resisting it, I think that the honorable managers will find it extremely difficult to construct out of the broken fragments of this article anything that will amount to a high misdemeanor. What are they? They are, in the first place, that the President did violate the Constitution of the United States by giving this order. How? They say, as I understand it, that the order of removal was made during the session of the Senate, and that for that reason the order was a violation of the Constitution of the United States. Now, if I can make my own ideas of it plain, I think there is nothing left of that article. Now, in the first place, as Senators will observe, this is the case of a Secretary of War, holding, by the terms of his commission, "during the pleasure of the President," and holding under the act of 1789, which created that department, and which, although it does not directly confer on the President the power of removing the Secretary, does clearly imply that he has that power by making a provision for what shall happen in case he exercises it. That is the case which is under consideration. The question is this: whether, under the law of 1789 and the tenure of office created by the law—created after great debate—the President could have removed such a Secretary during the session of the Senate. Why not? Certainly there is nothing in the Constitution of the United States to prohibit it. The Constitution has made two distinct provisions for filling offices. One is by a nomination to the Senate, a confirmation by that body and commission by the President on that confirmation; the other is the commission of an officer when a vacancy happens during a recess of the Senate But the question now before you is not a question how vacancies shall be filled—for that the Constitution has provided—but a question how vacancies may be created, which is a totally distinct question. Whatever may be thought of the soundness of the conclusion arrived at, after great debate, in 1789, concerning the power of removal from office, no one, I suppose, will question the fact that a conclusion was arrived at and that that conclusion was that the Constitution of the United States had lodged with the President this power of removal, independently of the Senate. This may be a decision which ought to be reversed It may have been now reversed. On that I say nothing at present. But that it was made, that the legislation of Congress in 1789, and on down to 1867, proceeded on the assumption, express or implied, that that decision had been made, nobody who understands the history of the legislation of the country will deny

Consider, if you please, what the decision was: That the Constitution had lodged this power in the President; that he was to exercise it; that the Senate had not, and could not have, any control whatever over it. If that be so, what materiality is it if the Senate is in session or not? If the Senate is not in session, and the President has this power, a vacancy is created and the Constitution has made provision for filling that vacancy by commissioning until the end of the next session of the Senate. If the Senate is in session, then the Constitution has made provision for filling the vacancy thus created by nomination, and the laws of the country made provision for filling it *ad interim*. So that, if this be a case within the scope of the decision made by Congress in 1789, and within the scope of the legislation which followed on that decision, it is a case when, either by force of the Constitution and the President had the power of removal without consulting the Senate, or else the legislation of Congress had given it to him; and, in other way, neither the Constitution nor the legislation of Congress had made it incumbent on him to consult the Senate on the subject. I submit, therefore, that if you look at this case as it has been presented, on the decision made in 1789, on the legislation of Congress following that decision, and on the terms of the commission under which Mr. Stanton held, you must come to the conclusion, without any further reference to the subject, that the Senate had, nothing whatever to do with the removal of Mr Stanton, either whether the Senate was in session nor not; that his removal was made either under the constitutional power of the President as it had been interpreted in 1789; or, if that be considered reversed, under the grant made by the legislature to the President in reference to all those Secretaries not included in the tenure of office act. This, however, does not rest simply on this application of the Constitution and legislation of Congress. There has been (and I shall bring it before you) a practice on the part of the Government, going back to a very early day, and coming down to a recent period, for the President to make removals from office when the case called for them, without regard to the fact whether the Senate was in session or not. The instances, of course, would not be numerous where, if the Senate were in session, he would not send a nomination to the Senate, saying, "I appoint A. B. instead of C D., removed." But there were occassions (not of frequent occurrence) where the President had not had time to select a person whom he would nominate, where he would trust the officer then in possession of the office to continue in it, and where it was necessary for him, by a special order to remove him from the office, wholly independent of the nomination of his successor.

Let me bring before your attention a case which happened recently, within the knowledge of the Senate. We were on the eve of civil war. The War Department was in the hands of a man who was disloyal and unfaithful to his trust. His chief clerk, who, on his removal, or resignation, would come to the place, was in the same category with his master. Under these circumstances, the President of the United States said: "Mr. Floyd, I must have possession of the Office." Mr Floyd had too much good sense, or good manners, or good something else, to do anything but resign; and instantly the President put into the War Office General Holt, the Postmaster General, with the delay of an hour, when a delay of twenty four hours might be of vast practical consequence.

There are several of this class of cases arising in all the departments, and followed by this action; and we shall bring before you evidence showing what those cases were, so that it will appear that as long as officers held during the pleasure of the President, and wholly independent of the advice which he might receive from the Senate with reference to their removal, whenever there was an occasion for it, the President used his power, whether the Senate was in session or not.

I have now given the considerations applicable to the tenure of office act, and to those allegations that the President violated—knowingly violated—the Constitution of the United States, in the order for the removal of Mr. Stanton from office while the Senate was in session.

The counsel for the President deem that it is not essential, in order to his vindication from this charge, to go further into this subject. The President, nevertheless, takes a broader view of the matter, and it is due to the President that it should be brought into court, and that I now propose to open to your consideration.

The Constitution requires the President of the United States to take care that the laws be faithfully executed. It also requires of him, before he is qualified for his office, to swear that he will faithfully execute the laws and that, to the best of his ability, he will preserve, protect, and defend the Constitution of the United States I suppose every man will agree that as long as the President in good faith, is endeavoring to take care that the laws be faithfully executed, and is, in good faith, to the best of his ability, preserving, protecting, and defending the Constitution of the United States, although he may be mistaken, he has not committed high crimes and misdemeanors In the execution of those duties, the President found various reasons, which it is not my province at this time to state, but which will be exhibited to you hereafter, that it was impossible for him to allow Mr. Stanton to continue to hold the office of Secretary of War while he was responsible for his conduct, in the manner in which he is required by the Constitution and laws to be responsible. This was intimated to Mr. Stanton, and did not produce the effect which, in the opinion of well informed men, such an intimation usually produces. Thereupon the President first suspended Mr Stanton, and reported that fact to the Senate. Certain proceedings took place here, which will be adverted to more particularly presently. They resulted in the return of Mr. Stanton to the occupation by him of his office Then it was necessary for the President of the United States to consider, first whether the tenure of office act applied to the case of Mr. Stanton; and, second, whether, if it applied to the case of Mr. Stanton, the law itself was a law of the land, or was inoperative, because conflicting with the Constitution.

Now I am aware that it is insisted that it is the civil and moral duty of all men to obey those laws that have been passed through all the forms of legislation, until they shall have been declared by the judicial authority not to be binding. But it is evident that that is too broad a statement of the civil and moral duty incumbent either upon private citizens or upon public officers. Because, if this be the measure of the duty there never could be a decision, there never could be a decree that the law is inconstitutional, inasmuch as it is only by disregarding the law that any question can be raised upon it. I submit to Senators, that not only is there no such rule of civil or moral duty, but that it may be and has been a high and patriotic duty in a citizen to raise a question whether a law is within the Constitution of his country. Will any man question the patriotism or the propriety of John Hampden's act when be brought the question before the courts of England whether ship money was within the constitution of England? Not only is there no such rule incumbent upon private citizens which forbids them to raise such questions but, let me repeat, there may be, and there often have been instances in which the highest patriotism and the purest civil and moral liberty required it. Let me ask for you, if you were a trustee for the rights of third persons, and it those rights of third persons, which they could not defend themselves by reason, perhaps, of sex or age, should be attacked by an unconstitutional law, should you not deem it your sacred duty to resist that law and have the question tried? And if a private trustee may be subject to such duty, and impelled by it to such action, how is it possible to maintain that he who is a trustee for the people, with powers confided to him for their protection, for their security, for their benefit, may not in that character of trustee defend what has been thus committed to him? Do not let me be misunderstood upon this. I am not intending to advance upon or to occupy any extensive ground, because no such extensive ground has been advanced upon or is occupied by the President of the United States. He is to take care that the laws are faithfully executed When a law has been passed through the forms of legislation, either with his assent or without his assent, it is his duty to see that that law be faithfully executed. So long as nothing is required of him in his ministerial action, he is not to erect himself into a judicial court and decide that the law is unconstitutional, and that, therefore he will not execute it. If that was done, there manifestly never could be a judicial decision The President would not only veto the law, but would refuse all action under the law after it was passed, and would thus prevent any judicial decision being made upon it. He asserts no such power. He has no such idea of his duty. His idea of his duty is, that if a law is passed over his veto which he believed to be unconstitutional, and it that law affects the interest of third parties, those whose interests are affected must take care of them, and must raise questions concerning them. If such a law affects the interest of the people, the people must take care of them at the polls, in a constitutional and proper way. But when a question arises whether a particular law has cut off a power confided to him, and when he alone can raise that question, and he alone can cause a judicial decision to come between the two branches of the Government, to see which of them is right; and when, after due deliberation, with the advice of those who are his proper advisers, he settles down firmly in the opinion that such is the character of the law, it remains to be decided by you whether there is any violation of his duty in doing so. Suppose a law should declare or provide that the President of the United States shall not make a treaty with England or with any other power? That would be a plain infraction of his constitutional power; and if an occasion arose when such a treaty was expedient, desirable, or necessary, in his judgment, it would be his duty to disobey the law. And the fact that it would be declared a high misdemeanor if he disobeyed it no more relieves him from the responsibility, through the motive of fear of that law, than he would be relieved from that responsibility by a bribe. Suppose a law is passed that he shall not be Commander-in-Chief? That is a plain case of an infraction of that provision of the Constitution which has confided to him that command, in order that the head of all the military power of the country shall be its highest civil magistrate, and that the law may always be superior to arms Suppose the President should resist a law of that kind in the manner which I have spoken of, by bringing it to a judicial decision?

[*Continued on fourth page.*]

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MAYSVILLE, KY., APRIL 22, 1868.

THE IMPEACHMENT.

On Saturday, 11th, inst., Gen. SHEMAN was introduced as a witness for the defense. His testimony was objected to and the Senate decided not to receive it. This decision was inconsistent with those previously given by the Court, and if persisted in would have overthrown the greater part of the evidence the counsel of the President had labored so long to collect in his defense. On Monday, 13th inst., Gen. SHERMAN was re-called:

The President's counsel made some further attempts to get in the evidence of General SHERMAN, in relation to avowals of intention made to him by the President, but the Senate adhered to its ruling made on Saturday upon that point, and the effort was relinquished. Some evidence of no great importance was next put in, and then it occurred to Senator JOHNSON, of Maryland, to recall General SHERMAN and ask him the question what purpose the President avowed in offering to appoint him Secretary ad interim. This was the very point the defense had been unsuccessfully trying to get at; and its admission was energetically opposed by the managers; but, on the yeas and nays being taken, the Senate decided, by a majority of one, to receive the evidence. General SHERMAN then proceeded to give the substance of his conversations with the President, in which the latter declared that he believed the interest of the army and of the country required the removal of STANTON. He desired to have the constitutionality of the tenure-of-office law tested; expressed no intention to use force, and believed STANTON would make no resistance, because he "knew him to be a coward." Mr. BUTLER sharply contested the admission of this testimony, at every step; held a brief conversation with the General during the recess; and, finally, notified him that the managers would require his attendance, probably for cross-examination, to-day. An attempt was made to draw out an admission that Gen. SHERMAN advised the President to remove STANTON, but this question was ruled out. The progress of the case was watched with eager interest throughout the day, and at times a good deal of excitement was apparent on the floors as well as in the galleries.

On Tuesday, Mr STANBERY was taken ill, and the Court adjourned until Wednesday.

On that day Mr. STANBERY was not present, and his associates were not sufficiently familiar with the character of the evidence still in reserve to warrant them in proceeding with oral testimony, so Mr. CURTIS announced, soon after the opening of the court, that he would consume the day in the presentation of documentary testimony.

Previous to this, however, some time had been consumed in a discussion of the attempt made on Monday to give the managers and counsel opportunities for more speeches than are provided for in the rules already adopted. It came up as a motion of Mr. SUMMER to allow such of the managers and counsel as are crowded out by the rules, to print their arguments as part of the proceedings of the court.

For this Mr. CONNESS moved a substitute, allowing each side four days for oratorical purposes, after the close of the testimony.

Finally, Mr. DRAKE moved to postpone the whole subject indefinitely, which was done by 37 to 15.

The first document presented in evidence was the appointment of THOMAS EWING, of Ohio, as Secretary of War, made by the President on the 22d of February. The nomination was made out that day, as testified by the President's private secretary, but when the secretary reached the Capitol the Senate had adjourned. It did not, therefore, reach the Senate until Monday, 24th of February.

The next document offered was the message of the President in answer to the executive resolution of the 21st, which pronounced the removal of STANTON illegal and unconstitutional. This message was dated February 24th. BUTLER promptly objected to its introduction, on the ground that it was a declaration made after the crime had been committed. He concluded by asking if the counsel for the President dared to offer such a thing in evidence.

This brought Mr. EVARTS to his feet in a very timely little speech, which he commenced by saying that he and his associates were not in the habit of considering dares in their forensic discussions. On the rules of practice, or of law and evidence, the counsel might claim some superiority over the managers; but in the measure of daring they certainly could not compete with them. This rebuke attracted the notice of the court, and created a little merriment at BUTLER's expense. It was followed by a considerable wrangling upon the subject.

The Chief Justice expressed the opinion that the message was not competent evidence. He would, however, submit the question to the Senate if any Senator desired it. No Senator desired it, and the document was ruled out. Next, the counsel presented a long list of appointments made in preceeding administrations without the advice and consent of the Senate while the Senate was in session. These were not put in as testimony, but were ordered to be printed and laid upon the desks of Senators.

The rest of the day was occupied in the introduction of documents of various kinds, none of them new to the public or important in their character.

At half-past 3, the counsel having finished the business they had appointed for the day, the court adjourned.

Immediately upon the opening of the court of impeachment on Thursday, Mr. SUMNER arose and offered a declaration of opinion to the effect that as the trial was an important one, and as the Senators were judges of law as well as of evidence, all testimony offered which was not trivial or irrelevant should be received.

This, coming from such a source, astonished all who heard it, but it was quickly disposed of on a motion of Mr. CONNESS to lay it on the table, which was carried by a vote of 23 to 11.

The defense then proceeded with the evidence. Messrs. COX and MERRICK, two Washington lawyers, were put on the stand. The testimony was objected to at successive stages on the ground that it related to declarations made by the President after the fact. The managers, however, were overruled by the Senate, and the evidence was admitted. It was to the effect that the first gentleman was employed by the President on February 22, the day after Mr. THOMAS' appointment, to assist the Attorney General in preparing a case for the court, to judicially test the constitutionality of the civil tenure of office law.

Mr. MERRICK testified that he was employed as Mr. THOMAS' counsel, but subsequently acted conjointly with Mr. Cox in making up a case for the court, under the direction of the President and Attorney General. The witness detailed the proceedings in court on the occasion of the arrest of General THOMAS and stated that owing to the discharge of that gentleman by the Judge it was found impossible to get up a *habeas corpus* case for the Supreme Court, and that the application for a *quo warranto* was not made as intended, owing to the discovery that it would take a year to get it before the Supreme Court for final decision.

E. O. PERRINE, who was Secretary of the Philadelphia Convention of August, 1866, was then put on the stand, and the defense stated that they expected to prove by him that on the day of THOMAS' appointment the President told him that THOMAS' was in quiet possession of the War Office; that his appointment was merely temporary, and it was the President's intention to send in the name of some one at once to the Senate for confirmation. This was objected to and ruled out by the Senate.

At this point the principal scene of the day occurred, when, at quarter past 4 o'clock, Mr. Evarts rose and said the President's counsel were not prepared to proceed further with the introduction of testimony to-day. The inference from his remark was that the court had better adjourn for the day.

Mr. BUTLER jumped to his feet very quickly and delivered a speech of twenty minutes' duration, the like of which has never before been heard on an impeachment trial or any other trial. He started out by asserting that this was an effort to carry into effect the declarations made by the Democrats in the House, that the trial would be prolonged until the end of President JOHNSON's term of office. He jumped about the floor and moved every limb and muscle of his body, like frogs in the pangs of vivisection. He charged the President with every murder that had been committed, and was being committed in the South, and said these outrages upon the Union people would be continued until the great criminal was removed from office.

At this point SUMNER put in a loud "That's so!" and the galleries attempted a demonstration of applause, which, however, was quickly stopped.

Thus encouraged, BUTLER went on thundering and roaring forth his denunciations of the President, charging on him the resposibility for treasury frauds, which he said he was prepared with documentary proof to establish. He immediately produced some tabular statements, setting forth some facts connected with the sale of Government gold, which, he said, proved the President to be defrauding the Government.

The Senate had now began to wonder, rather than to listen. Everybody stared at the impassioned gesticulator, and many thought he must have forgotten where he was and what was the occasion which had called forth such a torrent of abuse where an argument was expected. Still he pranced and danced and thundered and talked of the great criminal, and repeated his accusations about the murder of Union men in the South. Fessenden looked at him with utter disgust. SUMNER smiled approval, and the Democrats smiled amusement and derision. After 20 minutes of this most extraordinary style of oratory, Mr. Butler sat down.

Mr. Evarts immediately rose, calm and collected, and was proceeding to a very sharp rebuke of Mr. Butler, whose speech he characterized as a harangue, when Mr. Cameron appealed to the Chair to know if it was in order to apply the word "harangue."

There was a scene of confusion just here which threatened to have a serious termination, and there is no telling where it would have ended but for the coolness and discretion of the Chief Justice, who, amid the excitement of the moment, heard a motion to adjourn, coming from Mr. Ferry, of Connecticut. This was evidently a welcome sound to him, and he made the best possible use of it to help himself and the Senate out of the impending trouble. "It is moved and seconded that the Senate adjourn," said he in a voice which told him how anxious he was that the motion should prevail. "All who are in favor of that motion will say 'aye.'" Less than half the members present said 'aye.' The Chief Justice did not put the negative, but said, "the court stands adjourned until to-morrow at 12 o'clock." So the court stands adjourned, and for the fact that there was not a big row the Chief Justice was thanked by a great many.

On Friday, 17th inst., Messrs. Welles, Seward, McCulloch, Browning, and Randall were upon the floor of the Senate all day, expecting every moment to be called to the stand. Mr. Seward seated himself next to Mr. Chandler, with whom he seemed to engage in friendly converse all day. Mr. Randall circulated among the members pretty freely, and seemed to be on good terms with them all.

The first business of the court was the adoption of the resolution offered by Mr. Conness on Thursday, that the court meet at 11 o'clock each day. This was carried by 29 to 14.

Mr. Ferry then rose and said that there appeared in the *Globe*, to-day, as a part of Manager Butler's speech, certain tabular statements which were not read in the Senate. He moved that said statements be stricken out of the official report of the trial.

Mr. Butler was proceeding with an explanation when Senator Hendricks, construing it as an attack upon the Secretary of the Treasury, rose to ask if it was in order for a manager of the impeachment to make such attacks upon the Secretary, when there was no one upon the floor who had a right to defend him.

Senator Anthony said he would move, if there were no objections, that Mr. Hendricks have permission to defend Mr. McCulloch, but an objection came from Mr. Edmunds, and there the matter stopped. Mr. Ferry's resolution was adopted.

The first witness called was W. W. Armstrong of the Cleveland Plain Dealer. The defense attempted to prove by him that the crowd at Cleveland constantly interrupted the President in his speech and, that the crowd was disorderly, &c.

The next witness, Barton Able of St. Louis, testified in relation to the St. Louis speech; that the President at first declined to make a speech, but finally yielded to a pressing invitation, and appeared upon the balcony of the Southern Hotel. He was frequently interrupted by the crowd, among whom were many of his political enemies.

George Knapp, proprietor of the St. Louis Republican, testified substantially the same as the previous witness, as to the intentions of the President, his refusal at first to make a speech and his final acquiescence at the urgent request of friends to appear. Mr. Knapp was sharply cross examined by Mr. Butler, who thrust in irrelevant questions as to the politics of the Republican, &c., but he answered every question promptly, and proved better than any other witness that the President was bullied into whatever discourtesies he committed.

Mr. Zeder, as reporter for the Republican, was then examined as to the accuracy of the several reports of the St. Louis speech.

This closed the case as to the President's speeches. The President's counsel then introduced another installment of documentary evidence in regard to the form of appointments, and also called Frederick W. Seward to the stand to prove the practice of the State Department in the appointment of consuls and diplomatic officers. This evidence did not seem to be regarded as very important by the court or managers, though the managers reserved the right to object to certain portions of it, if it should prove, on investigation, to be irrelevant.

At a little before 2 o'clock Mr. Curtis created quite a buzz of excitement in the galleries and on the floor by asking the Sergeant-at-arms to call Secretary Welles. The venerable Secretary came forward behind a pair of gold spectacles, and stood up, straight as a ramrod, at the witness stand. He was interrogated as to the date of his commission as Secretary of the Navy, and said it was March, 1861. He had been in the Cabinet ever since, but had not been reappointed or recommended. He then went on to detail the occurrences which induced the President to send for Gen. Emory, on the 22d. He had been informed by his son that certain military movements were going on in this city, of which he thought it proper that the President should be informed. He called at the White House next day and advised the President of what he had heard, and also advised him to send for Gen. Emory, which he did. This testimony explains all that appears to be mysterious in the testimony elicited by the prosecution from General Emory in the early days of the trial.

Judge Curtis then questioned Mr. Welles as to what took place in the Cabinet in regard to the removal of Mr. Stanton, but Mr. Butler pricked up his ears and was prompt with an objection.

The Chief Justice said he was clearly of the opinion that the testimony was admissible; whereupon Mr. Drake roared out an appeal and a call for the yeas and nays.

A great deal of interest was taken in the result of the vote. As the roll call progressed it was seen that it would be closely contested, and each side mustered what strength it could from the lobbies and cloak-rooms. The opponents of impeachment felt greatly relieved when, by 26 to 23, the court decided to let Mr. Welles proceed.

The Secretary stated that the Cabinet was unanimous for the removal of Mr. Stanton and the appointment of General Thomas. This was regarded as a great point for the defense, and it encouraged Judge Curtis in the effort to get more from the same source. He then went back to the time of the passage of the tenure-of-office law, with the intent of proving that Stanton and every other member of the Cabinet believed that law to be unconstitutional; but Butler entered a very decided objection to this question. Then followed a debate, of more than half an hour's duration, between Evarts and Butler. When it was thought a vote was about to be taken, Mr. Conness moved an adjournment, for which most of the impeachers seemed anxious. This is the first time the impeachers have voted for an adjournment as early as half-past 4 o'clock. Mr. Conness said he made the motion by request, as it was the desire of the managers to argue the question at length; but the fact that the impeachers were afraid Welles would be allowed to answer Curtis' question, and they thought it best to adjourn and spend the night in stiffening weak backbones, of which the day's proceedings gave evicence of several.

CORRESPONDENCE.

With Mr. STANTON's consent we place the subjoined correspondence before our readers. We may have occasion hereafter to allude to it, but for the present we let it speak for itself.

MAYSVILLE, KY., April 10, 1868.

Hon. R. H. Stanton—My Dear Sir:—It is no secret in this community that many of the articles published in the Maysville *Bulletin* owe their paternity to yourself, and that other articles have been written by your son, Mr. H. T. Stanton. The paper has been recognized as your personal organ, and as especiallly devoted to your interest. It is known that the gentlemen who are the nominal editors of the paper neither write for it nor control its utterances. These facts, I think, warrant me in calling your attention to the enclosed article from the *Bulletin* of the 9th inst., and in requesting you to inform me if it meets your approbation or has your endorsement. But one construction can be placed on that article, and that is that it avows the determination of the Democratic party, as organized and controlled in Kentucky, to ostracise all Union men who continued so during and throughout the war. In other words, that however steadfast a man may have been in opposition to the unconstitutional measures of Mr. Lincoln's administration, and to the illegitimate direction given to the war, and however earnestly he may now labor for the restoration of the Southern States to a position of perfect equality in the Union, yet, unless he repudiates his convictions as a Union man, it is an act of impudence in him to ask office at the hands of the Democratic party; and that however worthy he may be in all other respects, the mere fact that he still thinks and proclaims when called on to do so that the rebellion was unlawful and unjustifiable, and that it was the duty of the Government to suppress it, is sufficient of itself to insure his exclusion from office and ostracism by the Democratic party. I wish to know if you endorse this article and justify the ostracism of Conservative Union men on the ground set forth by the *Bulletin*. I have avowed my purpose to support you for the Judgeship of this Judicial Circuit, and I hope I may be able to do so cheerfully and cordially. But as this question has been made an issue by the paper for which you frequently write, I feel that I am justified in asking at your hands a distinct and unequivocal repudiation of the sentiments of the enclosed article, or else an equally distinct and unequivocal endorsement of these sentiments. Awaiting your answer, I remain, very respectfully, your obedient servant,

THOMAS M. GREEN.

MR. STANTON'S RESPONSE.

MAYSVILLE, KY., April 13, 1868.

Thomas M. Green, Esq.—My Dear Sir:—Neither my son nor myself is the author of many of the best editorials which appear in the columns of the *Bulletin*, and I do not recognize your right to hold me responsible for its utterances; nor do I think you do the editors of that paper justice, when you intimate that it is my personal organ, and that they do not control its contents. The paper is no more devoted to my interests than it is to the interest of any other individual Democrat. This much in reply to the opening sentences of your letter.

The object of your letter is to know if the article in the *Bulletin* of the 9th inst. meets my approbation and has my endorsement. I answer the inquiry in the same spirit of kindness in which it is made, and frankly say that the article does have my approval and endorsement.

You must allow me, however, to say that it does not warrant either the construction you have put upon it in your letter, or the application you have made of it to the Hon. L. W. Andrews in your paper of Saturday last. The article does not "avow the determination of the Democratic party, as organized and controlled in Kentucky, to ostracise all union men who continued so during and throughout the war," nor does it require that "he shall repudiate his convictions as a Union man," to render himself eligible to the favors of the party. Such a construction cannot be fairly placed upon it. Indeed, the article explicity declares that "*the Democratic party has not, and never will, make it a rule to ostracise any man simply becuuse he was in favor of the war, or because he is what is called a Union man.*" When the party adopts that rule, I shall be as ready as yourself to condemn it.

The article is manifestly aimed at that class of men who pride themselves upon their uniform hostility to the Democratic party, make a vaunting parade of their Unionism, acknowledge no past errors, "and still think all who opposed the war are traitors and rebels" It seems to me such men must have an unusual degree of assurance if they expect the Democratic party to elevate them to office in preference to their own tried friends. They give us no credit for the sincerity of our principles or the integrity of our purpose. They still stigmatize us as "rebels," or "rebel sympathizers," and thus stimulate and encourage Radical hostility to our organization in Kentucky at the very time they themselves profess to be warring against Radicalism. Such men, in our ranks, would only be agents of discord and ministers of evil. I am sure, as a man of honor, you could not expect me to fraternize, politically, with any degree of cordiality, with men who not only professed to believe, but persistently called, me a rebel and a traitor, and whose course I believed was calculated to feed the flame of Radical animosity against me and my party, much less to give them my support for office in preference to my old political associates.

I have given too many votes for Union men since the commencement of the war to be justly subject to the imputation of desiring to ostracise men *simply because of their Unionism*. The Union man who comes into our party in good faith, giving us credit for the sincerity of our sentiments, leaving behind him his prejudices, and honestly intending to support our principles, as officially declared by our conventions, will be heartily welcomed by me. I can forget much, and forgive much; and the man, who, from a sense of patriotic duty and an honest heart, no matter what may have been his past political record, joins with the Democracy in its holy struggle in defense of civil liberty, the Constitution and free government, will be met by me with an open hand and a warm heart. He need fear no ostracism at my hands.

I remain, very respectively, your obedient servant,

R. H. STANTON.

The following is the article to which reference is made in the above correspondence, and by reference to which the reader will be enabled to form an opinion as to its purpose and meaning, and of the *animus* of the writer and endorser:

WHO IS RESPONSIBLE FOR HELPING ABOLITIONISM DO ITS MISCHIEF.—Many good and patriotic men were, at the breaking out of the war, led to take part with the abolitionists against their brethren of the South under a belief that the war was in good faith for a restoration of the Union. They were not wise enough to see, that it was a war of fanaticism and malice; a war to destroy slavery and the system of slave labor in the South, to erect a New England despotism over the country, and to punish the slaveholding people for daring to show a brave and manly regard for their own rights. In Kentucky, thousands of these men, so soon as they become convinced of the progress of events that the restoration of the Union and the re establishment of the constitutional relations of the States, was not the purpose for which abolitionism was carrying slaughter, and death, and destruction, among the people of the Southern States, ceased to support the war, proclaimed their opposition, united with the party opposed to it, and have acted with the Democracy ever since. Many of them had been in the army, were covered with wounds, but were unwilling to fight longer in a cause they believed to be unparalleled in its atrocity and wickedness.

These men had seen the negro forcibly, and against every principle of constitutional right, taken from their masters without regard to whether their masters were for or against war—had seen these negroes organized, armed and set loose, with brutal ferocity upon the people of the South—had seen the fiendish malice with which abolitionism was pushing on the war to the destruction of the lives, liberty and property of the men, women and children of the slave States—and at the risk of being proscribed, and hunted down as rebels and traitors, abandoned the cause, acknowledged the error of their own conduct and arrayed themselves cordially with that party which had opposed the war from the beginning, and which, in their judgement, promised to be most efficient in bringing about a restoration.

There were others, however, who starting with abolitionism in the war for the destruction of the South, did not quit their relations with the war party even when it became apparent that the war was no longer a war for restoration. They saw the negroes liberated —they saw them armed and put into the field—they saw the process of subjugation working out its natural results—and though they may have ventured now and then a feeble remonstrance against these things, still glorified the war and continued to denounce all as rebels, secessionists and traitors, who did not join with them in doing so. They were for "fighting the rebels with *bullets*, and after they had crushed the rebels they would fight the abolitionists with *ballots*." They fought the rebels with bullets until they fought ten States out of the Union; until they fought hundreds of thousands of the bravest und best men this country ever produced into bloody graves; until they fought the government into a debt that will oppress and burden the labor of the country for generations to come; until they have enthroned in the political power of the country the basest and most wicked party that ever had power in any age or nation; until they have destroyed all other departments of government except Congress, overthrown every principle of the Constitution, abolished free government, and established among us the worst despotism on earth. This is what such men have done by fighting the rebels with *bullets*. They are now fighting the abolitionists with *ballots*.

And now, these men after having aided abolitionism in bringing these evils upon the people of the country, call it Unionism, and ostentatiously make a parade of it upon all occasions. They claim it as a merit that they did not act with the Democratic party of Kentucky in opposing the designs of abolitionism. They denounced the Democratic party as secessionists and rebels, and think it a great outrage that Democrats should prefer for office *one of their own consistent men, who has no part of the responsibility for any of the wrongs abolitionism has inflicted upon the country, on his shoulders, to one of that class who helped abolitionism to do all its mischief.*—The Democratic party have not and never will make it a rule to ostracise a man simply because he was in favor of the war, or because he is what is called a Union man. The man who saw the error into which abolitionism was leading him, and, like a brave, true man, had the courage to acklowledge it, and unites with the Democracy in good faith, believing in its principles, need fear no ostracism. But the man who, still glorifying himself for his uniform zeal in aid of the principles and means which brought the country to its present wretched political condition, having nothing to repent, and who still thinks all who opposed the war were rebels and traitors, must have unmeasured assurance if he thinks the Democratic party ought to elevate him to office in preference to their own men.

REMINISCENCE OF A MISSOURIAN.

During the reign of terror in the present Radical State of Missouri, when bushwhackers and State militia contended for the mastery, not only of local control, but vied with each other in deeds of infernal rascality, there lived in the western portion of the State a high priest of the political church militant—named BRATTON. He sang at all the Conventions from Jefferson city to the country towns, airs of every variety; but was famous for his ditty of:

Gov. Gamble don't want to go to Heaven,
For fear he'll meet John Brown.

His impudence knew no extremity. He preached, prayed, sung, lectured, and was as generally officious as ever the devil would want any of his imps to be, in matters both temporal and secular—a perfect devil incarnate, for he was always a devil out of danger.

A large number of PRICE's men in Daviess, Livingston, Grundy and adjoining counties, whose six months term of service having expired, were virtually conscripted into militia service, and rendered post duty. Notwithstanding their presence—and the Col. commanding swore they were as good soldiers sober as he ever saw; but when drunk would hurrah for JEFF. DAVIS—nightly conclaves were held, especially by such as stood in fear of being claimed equally as friends by the bushwhackers and sympathizers as by the militia—a flight from town seemed to be the only deliverence from the dilemma if the dreaded PORTER and his band should come.

Being duly inspired, and with a high and holy purpose on his lips, and in his heart PARSON BRATTON duly summoned at this juncture his ex-rebel battallion at the Court House, and having duly lectured, preached, prayed, sung, and exhorted—proceeded to give an illustration through the means of a brickbat, walnut and a hammer which he had come prepared with —a practical illustration of the parties. Breaking the hull he held it up as rebel: bitter, nauseous, disagreeable; and fit only for dye stuff, and making a bad dye at that. The crust enveloping the kernel he next held up as an illustration of the Conservative element, tasteless and useless—but stubbornly hard. Now, said the reverend, I will show you my party—the true Union party; and at once, between hammer and brick broke the walnut which internally proved to be rotten and black. He subsided. It was too much for the Daviess county boys. They broke out vociferously, stamped long and loud. The noise alarmed the citizens who as preconcerted instantly "went for" the brush and reported over the adjoining country that the bushwhackers had taken Chillicothe.

We need offer no apology for yielding so much of our space to the opening speech of Judge CURTIS. He is the ablest jurist in the nation, and the effort is worthy of his ability. The vindication of the President is complete. There is nothing needed to be added. Below we give a description of Judge CURTIS by "MACK," of the Cincinnati *Commercial*:

Judge Curtis and Judge Curtis' Speech.

[From the Washington Correspondence of the Cincinnati Commercial.]

The opening speech for the defense was a quiet and grave reminder of a sort of legal eloquence that was trite forty years ago. It brought to mind, in its stately periods, dispassionately, rationally, concisely uttered, the days of Marshall, Kent and Story.

Mr. Curtis is a man without a smile or a trifle. Somber is his vesture, purple is his color. He is very like Daniel Webster in stature, face and manner. He seldom walks in anybody's company, but with a slow, deliberate stride, leaning on a cane, he comes alone to the Capitol, ponderously mounts the steps, wipes his forehead in the ante-room, and, entering the Senate, sits in a condition of vigilant retirement, like a turkey gobbler bottling up his rage and working his craw. He exchanges no words with his legal brethren. If he is introduced to anybody in any pause or recess, he shakes hands with that gravity that Webster used to revel in. He weighs about one hundred and ninety pounds, perhaps more. Nature gave him a good, large, Websterian head; and his face is a fine old liver color. He perspires with great freedom, but never through excitement. His paunch is stately; his cloth gaiters are eminently legal; no gold seal disturbs the demureness of his vest; his blue eyes retreat into his brows, and his head into his standing collar, and he listens like a phosphorescent bull dog in a dark cellar.

Such is Judge Curtis, with the additions of straight, brown hair and a face smoothly shaven.

Rising to speak, to-day, there were about twenty books of reference before him. He put his hands on the baize table, looked his gloomy grandest, and began with the manner of a funeral oration. His voice is not strong, but naturally trained by the temperament of the man, and pitched upon the same easy key, it reaches the ear very pleasantly and strives to do no more. As it carried so its calm burden of argument at an equal pace, the minds of all of us left the domain of politics and rose with its cadences into the atmosphere of law. Insensibly we all began to feel that General Butler's speech, which we all had supposed a great performance, had been no more than a smart audacity. This old time man, never in a hurry, never in zeal, addressed himself to the supposition that his auditors were all learned and self respecting gentlemen. Every time he said "Senators!" he made a cold chill go through the Senate; for during the past two weeks one-half the Senators have forgotten their rank. I venture the supposition that this speech got more respect in every Senator's silent mind than any utterance of his own has had for a year past. I did not follow it closely enough to tell you the effect of it as an argument But it did this, which Butler, Stanberry, Wilson and Bingham had failed to do—it reminded the Senate of itself and of the occasion. Everything that had been said before grew little and mean after Curtis had talked an hour. In all that time he never changed his place, never faltered for a word, nor used any undignified expression whatsoever. Judge Chase heard the argument with the gravest care. It was a study to look at the Chief Justice and the solid old pleader, taking his time so tremendously.

GREAT DECREASE IN INCOMES.

The New York Evening *Post* announces the very significant fact, based upon information received from the assistant Assessors, that there is a general, though a very irregular, decrease in the income tax from last year, and the aggregate tax of that city will fall off more than twenty-five per cent. It is this income tax, with its inquisitorial offensiveness toward every class of the community, that, of all others, should be removed, rather than the taxes on manufactures. Expenses, however, must be reduced before the much-needed remission of taxation shall be really justifiable; and we do not see that our Radical legislators at Washington are doing anything material and permanent to lessen the great cost of their sectional and party rule taking off the domestic tax from a highly protected class of manufactures, with no reduction of duties on the corresponding classes of imports, while still maintaining extravagant and useless ranges of expenditure in maintaining military governments and freedmen's bureaus in ten States, is only a delusive pretense of relieving the people, the effects of which they must ultimately feel with two-fold force. Meantime, the decrease in incomes necessarily goes on under the prostrating effects of such a policy, and the people are still to be annoyed by having their lessening incomes pried into.

Holding one's self responsible to a political party must be somewhat irksome now and then to ambitious aspirants for political distinction. Chief Justice Chase must find it so. He has ventured to claim that in presiding over the Court of Impeachment he had some of the ordinary rights of a persiding officer, and in that claim he has thus far been sustained by the Court. But the Chicago *Tribune* pours out upon him, in no stinted measure, the vials of its wrath. While in Mr. Lincoln's Cabinet, it says, his arrogance was insufferable. The Republicans have shown their wisdom in not nominating him for the Presidency. He is reminded that he makes a fatal mistake, if he supposes he "can thwart the purpose of the nation to impeach Mr. JOHNSON," and is menaced with impeachment himself, if he persists in his claims, which are declared to be "an assumption of power second only to that which has made JOHNSON's impeachment necessary." Party sway, administered in this style, is certainly not particularly gentle.

MACAULAY, in that celebrated account of the trial by impeachment of Warren Hastings, has these remarks: "Whatever confidence may be placed in the decision of the Peers on an appeal arising out of an ordinary litigation, it is certain that no man has the least confidence in their impartiality, *when a great public functionary, charged with a great State crime, is bought to the bar. They ara all politicians. There is hardly one among them whose vote* on an impeachment may not be confidently predicted before a witness has been examined." Will any future historian apply remarks like these to the American Senate?

MARRIED.

CARR—MYERS—At Lancaster, Ky., March 26th, 1868, by Albert Myers, O. A. Carr, of Mayslick, Mason county Ky., to Miss Mattie F. Myers, of Lancaster, Ky.

Mr. Carr is well known to many of the citizens of this region as a young man of high promise in the ministry. He, with his highly accomplished bride, leave America on the 18th of April, as Missionaries to the far off land of Australia. He expects to return to America in five years. May kind Heaven grant him and his a prosperous voyage, complete success in the great cause he pleads, and a safe return to his native land, is the ardent prayer of his old friend and class-mate and fellow-laborer in the Master's Vineyard. ALBERT MYERS.

POLLOCK—KELLEY—In Germantown, Ky., March 31st, 1868, at the residence of the bride's father by the Rev. B. F. Whiteman, Mr. Alfred H. Pollock to Miss Laura Kelley.

DIED.

GILLESPIE—March 24th, 1868, at the residence of W. H. Savage, Edward Laconia, infant son of John T. and Martha A. Gillespie aged 1 year, three months and 3 days.

This little child suffered much, but has gone where suffering is no more. S.

NEWELL—April 16th, 1868, Mrs. Eliza Jane Newell, wife of the late R. H. Newell, Esq., and daughter of Simon, deceased, and Jane Nelson, in the 39th year of her age.

OWENS—At his residence in this city on Thursday morning, April 12th, 1868, Mr. Samuel W. Owens, aged 44 years.

ROBERTSON—On Thursday evening, April 16th, at his residence, Minerva, Ky., Dr. Wm. H. Robertson, after a few hours illness.

ANNOUNCEMENT.

We are authorized to announce Judge B. J. PETERS, of Montgomery—the present incumbent—as a candidate for re-election to the Appellate Bench in the First Appellate District, subject to a Democratic convention of the District.
jan25twawtd.

We are authorized to announce W. Perrine Larew as a candidate for Sheriff of Mason county, at the next August election, subject to the decision of the Democratic county Convention.

We are authorized to announce THOS. A. RESPASS as a candidate for Clerk of the Circuit Court of Mason county, subject to the decision of the Democratic Convention.

WEEKLY MAYSVILLE EAGLE

MAYSVILLE, KY., APRIL 22, 1868.

Presbytery of Ebenezer.—The Presbytery of Ebenezer convened in the Presbyterian Church, in Washington, Ky., on Friday night, April 17th, and was opened with a sermon by Rev. J. D. McClintock, the previous Moderator.

The proceedings of this body were characterized by harmony and brotherly love. The attendance was full, and all the members seemed to be pervaded by the liveliest interest in the work of the Church.

Rev. J. T. Leonard was received by letter from the Presbytery of Lafayette, Missouri. He, in connection with Lewis Hardin, (Elder) was authorized to organize a Presbyterian church in the town of Owingsville.

Wallace Evans, a candidate for the Ministry, under the care of Presbytery, was examined on his collegiate course.

Rev. Edward Eells, of the Presbytery of Red River, was granted leave to labor in the bounds of this Presbytery.

One of the most interesting parts of the proceedings was the free conversation on the state of religion within the bounds of the Presbytery. This conversation developed many mournful facts in reference to the work of division and strife which has resulted from the attempt to identify the church with the policies of this world,—yet many cheering statements were elicited in reference to the increased attachment to divine truth and to the divinely revealed order of the church. Some churches have enjoyed precious seasons of revivals, and in most of them there is a spirit of prayer and supplication.

Another interesting subject which came before Presbytery, was a paper, which was presented by Rev. B. M. Hobson at a previous meeting. The subject to which the paper refers was postponed until the next regular meeting of Presbytery, and it was resolved that it be published in the Maysville EAGLE. The paper is as follows:

"The Presbytery of Ebenezer regard the Westminister standards, as they have been understood and maintained in the Old School Presbyterian Church, as containing the system of truth revealed in the Holy Scriptures. We hold that they embody the will and the Gospel of God, and that our interpretation of them has been in accordance with all the Calvinistic churches since the time of the Reformation. We have regarded them, under the Scriptures, as the most illustrious symbols that have ever been bequeathed to the Church, and look upon the dangers which now environ them with the profoundest apprehension. The magnitude of this interest is above all beyond the questions which have ordinarily agitated the Church. Questions have often arisen which have engrossed her attention for a time,—and time and prayer and the spirit, have, in the end, led her aright. But we believe that in the life of those symbols is the life of the Church, and with their loss the ark of God is taken. In this expression of our views, we therefore lose sight of the temporary agencies which have caused the isolation of this Presbytery and of the Synod of Kentucky, of which it forms a part, and place ourselves on the broad basis of sympathy with those who, in these times of trial, may share with us the apprehension that the great basis of the Presbyterian Church is in danger.

1. The facile departures of the Old School General Assembly from the Scriptural doctrine of the communion of saints;—from the time-honored interpretation of our form of government and book of discipline;—the assumption by that Court of a right to descend from its spiritual functions, into the arena of civil government and to decide on conflicting interpretations thereof;—to decide also on the morality of systems of labor, and on the duty of government on questions of war,—all such decisions and legislation thereon excited our fears that under God's chatisements, the time had come when our Zion must be shaken, that those things which could not be shaken, might remain.

2. But with a precipitancy totally unexpected and with a fatality that transcended our fears and that reaches the symbols of truth, the Assembly engages in negotiations for organic union with the New School body, which will doubtless terminate in effecting that object. Now, it is only the reproduction of her own annals when we sey, that the Old School Church thus repudiates her own history,—thus pronounces her own great struggle from 1830 to 1840, a fraud, and thus loses an identity rendered illustrious in maintaining the truth and in the reception of divine blessings, for lo! these many years.

It is also equally in popular acceptance, that she embraces to her bosom those who, —if they have any peculiar history,—have identified themselves with the expositions of her symbols diverse from her own, and who, (even pending negotiations for union,) do not hesitate to avow, that they do not receive some of the great doctrines of our faith in what they are pleased to term the "philosophical sense" of the most orthodox divines of the Old School body. Nor can the christian world ever become oblivious to the events contemporary with these negotiations, when the public mind was inflamed with the most intense political excitement, and when both these bodies,—so repellant in their history and in their views, became pre-eminent in that unsanctified strife and congenial with each other.

3. Therefore, on account of the aforementioned departures from Presbyterianism, and on account of the contemplated forfeiture of the symbols of the Church, this Presbytery judges that the said Assembly is divested of all the rights and attributes of the Old School General Assembly, and that, *de facto et de jure*, those who are in accord with the Synod of Kentucky in her protests, are the true Old School Presbyterian Church. It is in this view, and for the sake of interests now in jeopardy, this Presbytery does most highly approve and will abide by that deliverance of the Synod of Kentucky, made at Lexington, June 1867, to-wit:

"This Synod cannot, in fidelity to the trust which is confided to it by the Head of the church, surrender, and it does not and will not surrender, its interest in the corporate title of the Presbyterian church in the United States, nor any of its rights in the Board's Seminaries and other property, and other franchises, ecclesiastical and civil, hitherto belonging to it, and guaranted in the covenants of the Constitution; but will use, as far as possible, all lawful means necessary to protect, preserve, and secure the same."

4. This Presbytery believes that there are true men, who have sufficient understanding of the times to know what Israel ought to do, who will be raised up to preserve her standards, and to perpetuate her organization, who will come from the East and from the West—from the North and from the South—and who realize the solicitude of God's Presbyterian people, to behold once more the true old school General Assembly, as it existed in this broad land from A. D., 1830 to 1860, inclusive.

5. This Presbytery have seen with gratification the cordial concurrence of the Southern General Assembly, which lately met at Nashville, in the principles announced to it from the Synod of Kentucky, and while that concurrence shall be a reason of cordial co-operation with that body in their present work, yet in waiting for and laboring for an organic union, commensurate with the desires of God's people, the strength of all concerned, is, at present, *to stand still.*"

PRESBYTER.

The Work of Death.—It is with much regret we are called on to record the death of two of the most prominent and worthy citizens of this county. Charles A. Lyon, of Dover, was in this city in the enjoyment of good health, serving on the grand jury, last week. On his return home on Wednesday of last week he was taken with the cholera morbus and sank rapidly. He died on Sunday evening, and was buried on Tuesday last.

Dr. Wm. H. Robertson was in Maysville on Monday last in good health and spirits On Thursday at 2 o'clock, P. M., he was taken sick and died in less than six hours. His disease was cholera morbus. Our intercourse with Dr. Robertson was both pleasant and profitable to us. He was a rare type of a thoroughly honest man in all things. We would be obliged to any of those who enjoyed his friendship longer than we did if they will prepare for us a fitting tribute to the memory of so good a man. We will receive it as a favor if any friend of Mr. Lyon will prepare an obituary notice for him.

Lewis and Mason County Turnpike Road Company.—Notice is hereby given to the subscribers of stock in the Lewis and Mason county turnpike road company, that a meeting if said subscribers of stock in the said turnpike road company will be held at Mount Olivet meeting house, in Mason county, Ky., on Saturday, the 2nd day of May, 1867, at 10 o'clock, a. m., for the purpose of organizing said company and electing five directors of said company, and for the transaction of any other busniess that may be brought before the meeting.

Thomas J. Walker,	Jas. H. Meenach,
Oliver H. Wright,	Thos Glasscock,
Nimrod D. Thomas,	M. H. Davis,
Isaac N. Cooper,	George Hull,
Samuel B. Lyous,	Robt. B. Hord,
George W. Pollitt,	RichardH. Lee,
Daniel S. Barkley,	Nelson Cooper,

Commissioners.

The Handsome Thing.—On yesterday we found on our table a neat package, marked "with respects of D. D. Duty & Co." Upon opening the bandle we discovered a silk vest, of a most elegant pattern, with trimmings, and all the etceteras complete. We have never seen anything richer or more beautiful of its kind, and our thanks to the generous donor are right heartily given. Mr. Duty has opened the handsome stock recently purchased in the East, and is now ready for his customers. The ladies say that he has the the richest and most beautiful goods, and that selection exhibits the most exquisite taste and the best judgment. Mr. Duty is the most accommodating of merchants, and there are no more polite and attentive clerks than those who stand behind his counters.

Grand Opening.—Mrs. Hudnut will open her Spring stock of millinery on Monday. To say that it is the prettiest selection of bonnets, hats, ribbons, and all the etceteras of the millinery business, is scarcely to do it justice. It is the prettiest ever made. Every article as a perfect "love" of itself. The ingenuity of the millinery mind has been severely taxed to devise articles so beautiful. We advise all the ladies to give an early call on Mrs. Hudnut, at her fashionable store on Front street.

Advice to all Mankind.—The sure road to fortune is to have people *know* that your prices for goods are lower than your neighbors, or that you have a much better article for the same money. This being our special object in view, we would say to you all that we are just in receipt of a quantity of J. W. Poland's Humor Doctor and White Pine Compound for Coughs and Colds; the best medicines in the market for the cure of Scrofula and all Diseases of the Blood, and are put up in large bottles and for sale by J. J. Wood and Bro.

Why not use White Pine Compound, when it is such a sure remedy for Coughs, Lung Complaints and Kidney troubles? and for sale by J. J. Wood and Bro.

STATE NEWS.

THE TRIAL OF BOTTS.—The trial of Geo. Bott for the killing of Scott Johnson, which occurred in this town on Saturday, the 4th inst, was commenced before his Honor M. M. Cassidy, Judge of the county court, on Friday last and concluded on Saturday afternoon. There were some fifty or sixty witnesses examined. Botts was held to bail in the sum of two thousand dollars to answer at the next term of the Montgomery Circuit Court, which was given. Hon. Thos. Turner and J. Davis Reid, Esq., county attorney, appeared for the prosecution, and Will H. Winn, O. S. Tenney and Wm. H. Holt for the defense.—*Mt. Sterling Sentinel.*

ON Friday evening last, Mr. Joe Owen, of Clark county, was brought to our city in charge of the Sheriff of Clark county, and delivered over to the proper authorities. He was arrested on two warrants, one for forgery, and the other for obtaining property upon false pretenses. On Saturday morning he was arraigned before Judge E. E. Garett, and admitted to bail in the sum of $6,000 for his appearance for trial before Judge Garrett as an examining court. The prosecution is represented by Maj. Buckner, or Winchester, and J. D. Reid, County Attorney; the defense is conducted by Judge Simpson and Charles Eginton.—*Ibid*

EAGLE KILLED—A little son of Mr. James Groves, of this country, one day last week, killed an eagle on his place on the Maysville pike, about five miles from town, which measured five feet nine inches from the end of its bill to the tip of its tail.—*Ibid.*

THE INTERMENT OF GEN. MORGAN.—The largest civic procession seen in Lexington for many a day followed the remains of Gen. John H. Morgan to their final resting place in our beautiful Cemetery on yesterday. Everything that could be done to testify the high regard in which he was held by his old neighbors, friends, and soldiers was done, and with a solemnity of observance that showed that it was not an empty pageant merely, but a sincere feeling of regret for the fate of a brave soldier, a sincere friend and a kind neighbor. At the hour of eleven his remains were borne into Christ's Church, when the solemn service for the burial of the dead was performed by the Rector, Mr. Shipman, in the most impressive manner. It was upon this same spot where the lamented soldier had so often heard the same mournful service performed over kindred and friends that his own remains were brought to receive their last consecration for the tomb It seemed but a few years since we were accustomed to see him, a bright lad kneeling beside his mother in the same church where the stalwart form of the soldier was brought to receive preparation for sepulchre. But if his deeds are remembered, and the dreadful years of conflict and carnage are brought to mind, then all is changed, and it appears as if he had lived in another country.

Never has a native born citizen of Lexington received more general and sincere evidences of regard at his burial than was shown on yesterday. Hundreds of strangers from a distance—citizens, soldiers, and societies—followed in solemn silence all that was mortal of John H. Morgan to the grave, there to mingle with the dust of his brethren and friends Many who had met him in mortal combat joined the *cortege* with those who had stood at his side, and over the grave of the dead soldier all strife was hushed, and they were as brethren laying their brother to rest.

The programme of the funeral was faith fully carried out, only there was a much larger attendance than was anticipated. Delegations from many towns and cities were present, and our Irish fellow citizens attended in a body. The Masonic Fraternity, of which he was a member, took charge of the remains after all religious services had been concluded, and performed their rites over them. As a mark of regard and respect many stores were closed along the route as the procession passed. In conclusion, we will only say that every mark of respect was shown for the dead Gen. that could have been paid even if the living man had been there, and even if the cause for which he had laid down his life had been triumphant. It was spontaneous, sincere, without bitterness, and without bravado, and such as the most illustrious man might desire at his burial.

"Weep not for him who dieth,
For he sleeps, and is at rest;
And the couch whereon he lieth
Is the green earth's quiet breast."

Lex. Gaz.

KENTUCKY RIVER.—We are reliably informed of a fine stage of water in this important tributary to our commerce. This is the fourth time since the beginning of the year that there has been sufficient water for the transportation of logs, lumber &c., from the upper waters of that stream, and on three of these floods, two heretofore and the present, shipments of iron, coal, and salt have been made. About eighty boats of coal came out in January and about thirty in February, and it is thought as many more are *en route* now. The Red River Iron Manufacturing Company have sent out this year *nineteen boat loads* of their celebrated iron, making *fifteen hundred tons.* This iron is seldom stored, but passes at once into the hands of consumers. When the *improvement of the Kentucky river* is complete, business enterprises of immense magnitude will multiply upon its shores, and a steady, reliable commerce will take the place of the present uncertain and generally unfrequent shipments. We sincerely hope the few counties which have not yet given their valuable aid to this good work will speedily do so, and make that gigantic enterprise a finished success.—*Ibid.*

SALES OF LAND AND STOCK.

FINE COLT SOLD.—C. Redmon sold to Dennis Nicholas, of Horrison, a fine colt by old Denmark, for $325.—*Paris Kentuckian.*

HOG MARKET.—Our Harrison friends, John Carter and James Megibbon, are purchasing stock hogs in Bourbon. They have paid, for 250 head bought of H. C. Hutchcraft, Henry Clay, sr., and others, 6½ to 7 cents.—*Ibid.*

STOCK SALES AT CYNTHIANA.—A. W. Lydick, auctioneer, reports to us the following sales at Cynthiana yesterday: Four yearling steers at $36 30; eleven ditto $37 60; eight ditto $39 50; two heifers, $33 50; five ditto $26; six calves, $20 70; horses dull; no mule offered.—*Ibid.*

LAND SALES.—Mr. John McClintock reports to us the following sales of land near Millersburg: John C. Miller, 80 acres to A. S. Murphy, at $77 50 per acre, cash. John McClintock, his Martin farm of 147 acres at $102 per acre, to W. W. Purnell.—*Ibid.*

THE MULE TRADE.—Pat. Bowden returned from Pennsylvania last week, with report of good market for extra mules; and he shipped another lot yesterday. He paid $162 50 for 40 head of them, at the sale in Mason of the estate of McIlvain, who was lost at the explosion of the steamer *Magnolia.*

Six head, purchased by E. B. Bishop in Garrard, Lincoln, and Mercer counties passed through town to-day. They cost from $260 to $600 per pair; one pair especially attracted attention, being 17 hands 1 inch high, and weighing 2,400 pounds. The largest lot purchased from one man were from Major Blythe, of Madison. They were raised by him out of his own mares and by his own jacks.

Mr. Sutherland, of Clark, shipped a very superior lot of thirty-eight mules to Pennsylvania last Saturday.—*Ibid.*

THE Washington correspondent of the New York *Herald* says: "The way Senators vote puzzles every body except themselves perhaps. It is impossible to analyze it. One day Sumner votes black and the next day white. One day Sprague vote with the Chief Justice and the next against. One hour Morgan favors by his vote allowing the utmost latitude in establishment of the President's intentions, and the next hour he seems to have forgotton this little fact and votes to confine the defense within the very narrowest limits. So it is day after day; but in all this strange confusion of voting, one feature stands out very prominent, and that is that the Chief Justice in his decisions always carries a respectable number of Republican Senators with him.

IN Nashville, on Sunday, a drunken carpenter named Quinton McWright attempted to beat his wife, when she seized a carving-knife, nearly cut his arm off and stabbed him in the back, inflicting severe wounds. The woman was not arrested.

Maysville Markets.

CORRECTED WEEKLY BY E. GRAY,
Wholesale Grocer, corner Second and Sutton streets.

COFFEE—common to choice 23 00 to 27 00.
SUGAR—N. O., 15½@16; P. R., 13½@14½; Dema., 14½@16¼; Soft Refined, 17@18¼; Hard Refined, 18@18½.
MOLASSES—N. O., $1; ½ bbl. $1 10; P. R., 75@85.
FLOUR—We quote at $10 00@14.
WHEAT—White (No. 1,) $2 60; No. 1 Red, $2 00.
GRAIN—Rye, $1.80; Oats, 45c; Corn, $1 00 to 1 10; Barley, $1 50 to $1 60.
WHISKY—$2 25@2 40.
PROVISIONS—Lard, 14@15c. Bacon, from 12½ to 15.½
MACKEREL—Bbl. No. 1, $2 00; do. No. 2, $20 50 ½ bbl. No. 1. $11; do. No. 2. $10 50; ¼ bbl. No. 1; $5; do. No. 2, ¼ bbl. $5 50. White Fish, $9 50.
FEATHERS—70@75c.
RAGS—3 to 4c.
SEED—Clover, $6¾ to $7 00 Flax, $2 00@2 25; Timothy, $2 75
TALLOW—per lb, 9 to 10c.
CANDLES—Tallow, 15@17; Star, boxes, 26½c.
SODA—American, 8½; English, 8
WOODENWARE—Buckets, $2 75; Tubs, nest three, $8 50; do 5; nest eight, $5 00; Washbd, $3 00

SPEECH OF MR. CURTIS.

[CONTINUED.]

ion. It may be said that these are plain cases of an express infraction of the Constitution. But what is the difference between a power conferred upon the President by the express words of the Constitution, and the power conferred upon him by a clear implication of the Constitution? Where is the power in the Constitution to levy taxes? Where does the power come from to limit Congress in assigning original jurisdiction to the Supreme Court of the United States? Where do a multitude of powers on which Congress acts come from in the Constitution, except by fair implication? Whence do you derive power to confer on the Senate the right to prevent removals from office without its consent? Is it expressly given in the Constitution, or is it an implication from some of its provisions? I submit that it is impossible to draw any line to limit the duty of the President simply because a power is derived from an implication of the Constitution instead of from an express provision of it. One thing unquestionably is to be expected from the President on all such occasions, and that is that he shall carefully consider the question; if he shall be of opinion that it is necessary for the public service that the question shall be decided, he shall take all competent and proper advice on the subject; and when he has done that, if he finds finds that he cannot follow the law in a particular case without abandoning the powers which he believes to have been confided to him by the people, it is his solemn conviction that it is his duty to assert the power and to obtain a judicial decision thereon. And although the President does not perceive, nor do his counsel perceive, that it is essential to his defense in this case to maintain this part of the argument, nevertheless, if this tribunal should be of that opinion, then, before this tribunal, before all the people of the United States, and before the civilized world, he asserts the truth of that position.

I am compelled now to ask your attention, quite briefly, however, to some considerations which weighed on the mind of the President, and led him to conclude that the power of removal was one of the powers of his office, and that it was his duty, in the manner I have indicated, to endeavor to protect it. It is a rule long settled, existing, I suppose, in the laws of all civilized countries—certainly existing in the laws of every system of government which I have consulted—that a contemporary exposition made by those who are competent to give it a construction is of very great weight, and that when such a contemporary exposition of the law has been made, and has been followed by an actual and practical construction of it, has been continued during long periods of time, and applied to great numbers of cases, it is afterwards too late to call in question the correctness of such a decision.

The rule is laid down in the quaint language of Lord Coke, as follows:

"Great regard ought, in construing a law, to be paid to the construction which the sages who lived about the time, or soon after it was made, put upon it, because thy are best able to judge of the intention of the makers at the time when the law was made. *Contemporanea expositio fortissima in lege.*"

Mr. Curtis then read from Chief Justice Marshall's life of Washington in regard to the action by the House of Representatives on a bill on the subject, in 1789, when Mr. Benson offered an amendment to the effect that the power of removal is solely in the President, and said that, if that prevailed, he would move to strike out certain words conveying the implication that it was a subject of legislative power. That motion was seconded by Mr. Madison. Both amendments were adopted, and the bill, passing into a law, has ever since been considered as the sense of the legislative department on this subject.

Mr. Curtis continued:

"Some allusion has been made to the fact that this law was passed only by the action of the Vice President. Upon that subject I beg leave to read from the life of President Adams, by his grandson, vol. 1, pages 448-450. He here gives an account, so far as can be ascertained, of what that debate was. He terminates the subject in this way: These reasons," he says (that is, the Vice President's reasons), "were not committed to paper, however, and can, therefore, never be known, but in their substance it is certain that he never had the shadow of a doubt."

I refer also to 1st Story's Commentaries on the Constitution, section 448. It will there be found that the learned commentators considered a contemporary construction of the Constitution, which he there describes, as of very great weight in determining his reasons.

"Mr. Curtis read the extract—To the effect that the expositions of various departments of Government, upon particular questions, approach in their nature, and have the same recommendation that belongs to a law.

He continued: In comparing the decision made in 1789 with the tests that are here suggested by the writer, it will be found, in the first place, that the precise question was under discussion; and secondly, that there was a deep sense of its importance; for it was seen that the decision was not to affect the few cases arising here and there in the course of the Government, but that it would enter deeply into its practical and daily administration. In the next place, the determination was, so far as such a determination could be entertained and carried into effect, thereby to fix the system for the future; and, in the last place, the men who participated in it must be admitted to have been exceedingly well qualified for their task.

There is another rule to be added to this, which is also of very frequent application, and that is that a long continued practical application of a decision of this character by those to whom the execution of a law is confided is of decisive weight. I will borrow again from Lord Coke: "*Optimus legum interpres consuetudo*"—Practice is the best interpretor of the law. Now, what followed this original decision? From 1789 down to 1867 every Senate, every President, and every Congress participated in and acted under the construction of the Government in 1789. Not only was the Government so conducted, but it was a subject sufficiently discussed among the people to bring to their consideration that such a question had existed, had been settled in this manner, had been raised again from time to time; and yet, as everybody knows, they were so far from interfering with this decision, so far from expressing, in any manner, their disapprobation of the practice which had grown up under it, it is well known that all parties favored and acted upon this system.

[At this point (2:20) on motion of Senator Edmunds, a recess of fifteen minutes was ordered.]

AFTER RECESS.

"The court was, as usual, slow in reassembling. At a quarter before three

Senator Morrill, of Maine, moved to adjourn, and called for the yeas and nays, which proved effectual in drawing in the absentees. Senators McCreery and Patterson, of Tennessee, only voted aye—Senator Morrill himself voting nay:"

Mr. Curtis continued, after recapitulating the point he was discussing before the recess, as follows:

This is a subject which has been heretofore examined and passed upon judicially in very numerous cases. I do not speak now, of course, of judicial decisions of this particular question, which is under consideration, whether the Constitution has lodged the power of removal in the President alone, or in the President and the Senate, or has left it in part to the legislative power; but I speak of the judicial exposition of such a practical construction of the Constitution of of the United States, originated in the way in which this was continued, and sanctioned in the way in which this has been sanctioned. There was a very early case, which arose soon after the organization of the Government, and reported under the name of Stewart agt. ——. (First Cranch's Reports, 299.) It involved a question concerning the interpretation of the Constitution as to the power which the legislature had to assign to the Judges of the Supreme Court certain duties. From that time down to the decision of the case of —— against the postwardens of Philadelphia, reported in 12th Howard, 315, a period of more than half a century, there has been a series of judicial decisions on the fact of such a contemporaneous construction of the Constitution, followed by such a practice in accordance with it; and it is a fixed and settled rule—which, I think, no lawyer will undertake to controvert—that the effect of such a construction is not merely to give weight to an argument, but to fix an interpretation. And accordingly, it will be found, by looking into the books written by those who were cognizant of the subject, that they have so considered and held. I beg leave to refer to the most eminent of all commentaries on American law. I will read from Chancellor Kent's lectures, found in the first volume, page 310, marginal paging. After considering this subject, and, it should be noted in reference to this very learned and experienced jurist, considering it in an unfavorable light, because he himself thought, that, as an original question, it had better been settled the other way, that it would have been more logical, more in conformity with his views of what the practical needs of the Government were, that the Senate should participate with the President in the power of removal;—nevertheless, he sums it up in this wise: That amounted to legislative construction of the Constitution, and it has ever since been acquiesced in and acted upon as of decisive authority in the case; and it applies equally to every other officer of the Government appointed by the President and the Senate, whose time of duration is not specially declared. It is supported by the written reason that the subordinate officers in the executive department ought to hold at the pleasure of the head of that department, because he is invested generally with the executive authority, and every participation in that authority by the Senate is an exception to the general principle, and ought to be taken strictly. The President is the great responsible officer for the faithful execution of the laws, and the power of removal was incidental to that duty, and might often be requisite to fulfil it. This, I believe, will be found to be a fair expression of the opinions of those who had occasion to examine this subject in their researches, or as a matter of speculation. In this case, however, the President of the United States had to construe, not merely the general question where his power was lodged, not merely the effect of this decision made in 1789, and the practice of the Government under it since, but he had to construe a particular law, the provisions of which were before him, and might have an application to the case upon which he felt called upon to act. And it is necessary, in order to do justice to the President in reference to this matter, to examine what the theory of that law is, and what its operation is or must be, if any, upon the case which he had before him, namely: the case of Mr. Stanton. During the debate in 1789, there were three distinct theories held by different persons in the House of Representatives. The one was that the Constitution had lodged the power of removal with the President alone; the other was that the Constitution had lodged that power with the President, acting only by and with the consent of the Senate; the third was that the Constitution had lodged it no where, but had left it to the legislative power, to be acted upon in connection with the prescription of the tenure of office. The last of these theories was at that day held by but comparatively few persons. The first two received not only much the greater number of votes, but much the greater weight of reason in the course of that debate. So much so that when this subject came under the consideration of the Supreme Court of the United States, in the case of *ex parte* ——, Mr. Justice Townsend, who delivered the opinion of the court in that case, says that it has never been doubted that the Constitution had lodged the power either in the President alone or with the Senate—certainly an inaccuracy; but then it required a very close scrutiny, and a careful examination of the individual opinion expressed in that debate, to ascertain that it had been determined in one way or the other. The Constitution settled the question. Nevertheless, as I understand, I may be mistaken in this but, as I understand, it is the theory of this law, which the President had before him, that both of these opinions were wrong; that the Constitution has not lodged the power any where, except that it has left it, as I understand, a legacy, which may be controlled, of course, by the legislature itself, according to its own will. Because, as Chief Justice Marshall somewhere remarks, (and it is one of those pertinent remarks which will be found to have been carried by him into many of his decisions,) "when it comes to a question whether a power exists, the peculiar mode in which it must be exercised must be left to the will of the body that possesses it." And, therefore, if this be a legislative power, it was very apparent to the President of the United States—as it would have been very apparent to Mr. Madison, as declared by him in the course of his correspondence, which is no doubt, familiar to Senators—that if this be a legislative power, the legislature may lodge it in the Senate, may retain it in the two Houses of Congress, or may give it to the House of Representatives. I repeat, the President had to construe this particular law; and that, as I understand it, is the theory of that law. I do not undertake to say it is an unfounded claim; I do not undertake to say that it may not be maintained successfully; but I do undertake to say that it was originally questioned by the ablest minds that had this subject under consideration in 1789; that, whenever the question has been started since, it has had through a recent period very few advocates, and that no fair, candid mind can deny or doubt at this day that it is incapable of being doubted and disbelieved after examination. It may be the truth, after all, but it is not a truth which shines with a clear and certain light that a man is guilty of a crime because he does not perceive it. The President not only had to construe this particular law, but he had to construe its application, its constitutional ability to apply to this particular case. Supposing the case of Mr. Stanton to be what I have endeavored to show, which was not within its terms—let us assume that the case is within its application—let us assume that this proviso, in describing the case of Secretaries, described the case of Mr. Stanton—did Mr. Stanton, having been appointed by President Lincoln, under the act of 1789, and commissioned to hold the office during the pleasure of the President by force of this law, acquire a right to hold this office against the will of the President, down to April, 1869? Now, there is one thing certain. It has never been doubted under the Constitution, and is not capable of being doubted, and that is, that the President is to make the choice of officers. Whether having made the choice, and they being inducted into office, they can be removed, is another question; but to the President alone is confided the power of choice. In the first place, he alone can nominate. When the Senate has consented to the nomination, he is not bound to commission the officer; he has his second opportunity for the consideration and acceptance or rejection of the choice he originally made. Upon this subject, allow me to read from the opinion of Chief Justice Marshall, in the case of —— against ——, where it is expressed more clearly than I can do.

["Mr. Curtis read from the opinion which enumerates the clauses of the Constitution bearing upon the subject, and says they seem to contemplate three distinct operations—the nomination, which is the sole and voluntary act of the President; the appointment, which is also his voluntary act, by and with the advice and consent of the Senate; and, third, the commission to grant which might, perhaps, be deemed a duty enjoined by the Constitution. The opinion, however, holds that it is optional with the President to commission or not, after appointment. He continued:"]

All this shows that the choice is with the President; that the action of the Senate upon the choice is an advisory action only at a particular stage, after the nomination, and before the appointment or commission. Now, as I have said before, Mr. Stanton was appointed under the law of 1789, constituting the War Department. In accordance with that law he was commisioned to hold during the pleasure of the President. President Lincoln has said to the Senate: "I nominate Mr. Stanton to hold the office of Secretary for the Department of War, during my pleasure." The Senate has said: "We assent to Mr. Stanton's holding the office of Secretary for the Department of War during the pleasure of the President." What was this for? If it operates in the case of Mr. Stanton, so that Mr. Stanton can hold office against the will of the President, contrary to the provision of his commission, contrary to the law under which he was appointed, down to the 9th of April, 1869, for this new fixed and extended term, where is Mr. Stanton's commission? Who made the appointment? Who has assented to it? It is a legislative act; it is a legislative appointment; it is assented to by the two branches of Congress, acting in their legislative capacity, and in no other. The President has had no voice in the matter. The Senate, as the advisers of the President, have had voice at all in the matter. If he holds at all, he holds by force of legislation, and not by any choice made by the President or assented to by the Senate, and this was the case, and the only case which the President had before him, and on which he was to act. Now, I ask Senators to consider whether for having formed an opinion on the Constitution of the United States; an opinion which he shares with every President who has preceded him—with every Congress which has preceded the last; an opinion formed on the grounds which I have imperfectly indicated, an opinion, which, when applied to this particular case, raises the doubts which I have indicated here, arising out of the fact that this law does not pursue either of the opinions which were originally held on this subject, and have occasionally been started and maintained by those who were restless under its operation; an opinion justified by the practice of the Government from its origin down to the present time—if he might properly and honestly form such an opinion under the lights which he had, and with the aid of the advice which we shall show you he received—then is he to be impeached—then is he to be impeached for acting upon it to the extent of obtaining a judicial decision whether this department, the executive department of the Government, was right in its opinion, or whether the legislative department was right in its opinion? Well, strangely enough, the honorable managers themselves say, "No; he is not to be impeached for that." I beg leave to read from the argument of the honorable manager by whom the case for the prosecution was opened:

"If the Presideni had really desired solely to test the constitutionality of the law, or his legal right to remove Mr. Stanton, instead of his defiant message to the Senate of the 21st February, informing them of the removal, but not suggesting this purpose, which is thus shown to be an after thought, he would have said, in substance: Gentlemen of the Senate, in order to test the constitutionality of the law entitled, "An act regulating the tenure of certain civil offices", which I verily believe to be unconsistuitional and void, I have issued an order for the removal of E. M. Stanton from the office of Secretary of the Department of War. I felt myself constrained to make this removal, lest Stanton should answer this information in the nature of a *quo warranto*, which I intend that the Attorney General shall file at an early day, by saying that he holds the office of Secretary of War by the appointment and authority of Mr. Lincoln, which has never been revoked. Anxious that there shall be no collision or disagreement between the several departments of the Government and the Executive, I lay before the Senate this message, that the reasons for my action, as well as the action itself, for the purpose indicated, may meet your concurrence."

Thus far the quotation shows the communication which the President should have obtained from the managers and sent to the Senate, in order to make this matter exactly right. Then follows this:

"Had the Senate received such a message, the representatives of the people might never have deemed it necessary to impeach the President for such an act to insure the safety of the country, even if they had denied the accuracy of his legal positions."

So that it seems that it is, after all, not the removal of Mr. Stanton, but the manner in which the President communicated the fact of that removal, after it was made, for which the President is to be impeached. That manner is called here "The defiant message of the 21st of February." I have read that message, as you all have read it. If you can find anything in it but what is decorous and respectful to the Senate, and to all concerned, your tastes are different from mine. But, whether it be a point of manners well or ill-conceived, one thing seems to be quite clear, that the President is not impeached here because he entertained an opinion that this law was unconstitutional; he is not impeached here because he acted on that opinion and removed Mr. Stanton; but he is impeached here because the House of Representatives considers that this honorable body was addressed by a "defiant message," when it should have been addressed in the terms which the honorable manager has dictated.

I now come, Mr. Chief Justice and Senators, to another topic connected with this matter of the removal of Stanton, and the action of the President under it. The honorable managers take the ground, amongst others, that whether, upon a true construction of this tenure-of-office act, Mr. Stanton is or is not legally the Secretary of War, or even if you should believe that the President thought the law unconstitutional, and had a right in some way so to construe it, still, by his own conduct and declarations, the President is estopped; he is not be permitted to assert the interpretation of the law, he is not to be permitted to allege that his purpose was to test the question concerning its constitutionality; and the reason is that he has done and said such and such things. Well, we all know that there is at common law a doctrine called rules of estoppel, founded undoubtedly on good reason. Although they were called in the time of Lord Coke, and have been down to the present day, odious, because they shut out the truth, nevertheless there are circumstances when it is proper that the truth should be shut out. What are the circumstances? They are where a question of private right is involved. Where on a matter of fact the private right accrues, and where one of the parties to the controversy does himself what he ought not, in good conscience, to be allowed either to assert or deny. But, did any one ever heard of an estoppel in a matter of law? Did any one ever hear that a party had put himself into such a condition that when he comes into a court of justice upon a claim o private right, he could not ask a judge to construe an estoppel? Did anybody ever hear, least of all, that a man was affected by reason of a estoppel, under any system of jurisprudence that ever prevailed in the civilized world? That the President of the United States should be impeached, and removed from office, not by reason of the truth of his case, but because he is estopped from appealing, would be "a spectacle for gods and men." There is no matter of fact here; they have themselves put in Mr. Stanton's commission, which shows the date of the commission and the terms of the commission, and that is the whole matter of fact involved. The rest is the constitutionality of this tenure of office act, and the application of it to the case which they have thus made for themselves, and also the construction of the Constitution of the United States, in the abstract question whether that has lodged the power of removal with the President, with the Senate, or with both parties.

I respecttully submit, therefore, in reply to the ground which is taken here that no conduct of the President, who comes to assert, not a private right, but a great public right confided to his office by the people—in which if anybody is estopped the people may be estopped—that nothing that the President could do or say could put this great public right into that extraordinary position. What has he done? What are the facts they rely upon out of which to work this estoppel, as they call it? Why, in the first place, he sent a message to the Senate on the 12th of December 1867, informing the Senate that he had suspended Mr. Stanton by a certain order, a copy of which he gave; that he had appointed General Grant to exercise the duties of the office ad interim by a certain other order, a copy of which he gave. He then entered into a discussion, in which he showed the existence of this question, whether Mr. Stanton was in the tenure of office bill; and the existence of the other question, whether this was or was not a constitutional law. Then he invoked the action of the Senate. There was nothing misrepresented; there was nothing concealed, which he was bound to state. It is complained by the honorable managers that he did not tell the Senate that their action should be such as to restore Mr. Stanton practically to the position of the office, or should go to law. It may have been possibly an omission; but I rather think that that good taste which is so prevalent among the managers, and which they so insist upon here, would hardly insist that the President should have held out to the Senate something which might possible have been rejected.

They say he made a case for their action, in which he was too deferential to the Senate, both by reason of this conduct of his, and also of other conduct. Too deferential! Senators, there is no inconsistency in the President's position or conduct in this instance. Suppose a party who has a private right in question submits to the same tribunal, in the same proceeding these questions: First, I deny the constitutionality under which the right is claimed against me; second, I assert that the true interpretation of that law will not affect this case; third, I insist that even if it is within the law, I have made a case within the law. Is there any inconsistency in that? Is it not done every day, or something analogous to it, in courts of justice? Suppose the President had summed up his message in this way:

"To the Senate: I insist, in the first place, that this law is unconstitutional; I insist, in the second place, that Mr. Stanton is not within the law; I respectfully submit, in the third place, whether, if it be a constitutional law, and Mr. Stanton be within it, the facts that I present to you do not make such a case, that you will not ask me to receive him back."

He has questioned whether the law was constitutional, and whether Mr. Stanton was within it; and then he submits that he had reason to believe, and did believe, that they thought the law unconstitutional; that they thought Mr. Stanton was within it. He submitted to their consideration the facts that he acted upon and within the law if the case was within it. Well, it seems the President has not only been thus anxious to avoid, and has taken means to avoid a collision with the Senate, but he actually on some things else obeyed it.

Mr. Curtis went on to refer to the commissions in which changes have been made by the President, or with his sanction, and to the removal and suspension of collectors, &c., and said it had doubtless been done under this law. But when an emergency arose, as in the case of Stanton, when he must either act or abandon the power that he holds, it was insisted upon that he must run a "muck" against the law, and take every possible opportunity to give it a blow.

On questions of administrative duty merely, the President felt bound to obey it. When this emergency arose, however, so that his department of the Government could not be carried on, he must meet it. He did not fear embarrassment or difficulty in the public service because of the suspension or removal of a fraudulent collector. These changes in commissions had nothing to do with this subject; they were made subject to the conditions prescribed by law, one of which was that the Senate must consent to a removal. Not only the law of Congress, but the Constitution was the law of the land. The changes in the Treasury Department also had nothing to do with the subject of removal, wherever it was vested. All officers held subject to the power of removal vested somewhere. He saw nothing in this subject of estoppel growing out of the action of the President, either in the message to the Senate of December 12, or in the changes in the commission or in the sending to the Senate notices of suspension of different officers, that has any bearing upon the construction of the tenure-of-offie act, as affecting the case of Mr. Stanton. The law might be constitutional, the President might have acted, and might have been bound to act, under it; still if Mr. Stanton was not within it the case remains as it was originally; and the case not being within that law, the first article was entirely without foundation.

At this point Mr. Curtis pleaded fatigue; and,

On motion of Senator Johnson, the Court adjourned until twelve to-morrow; and at 3:50 the Senate went into executive session, and soon after adjourned.